

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number: _____

Meeting Type: Regular

Meeting Date: Sep 24, 2015 10/8/15 dx

Action Requested By: Fire and Rescue

Agenda Type: Resolution

Subject Matter:

Approval of Agreement

Exact Wording for the Agenda:

Resolution authorizing the Mayor to execute a waiver and release between the City of Huntsville and Kovatch Mobile Equipment Corporation ("KME") regarding ownership of a 1989 Grumman Ladder Truck.

Note: If amendment, Please state title and number of the original

Item to be considered for: Action

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what council action will provide, allow and accomplish and; any other information that might be helpful.

Release and waiver related to the contract cancellation approved by Res# 15-438 for material breach.

Associated Cost: NA

Budgeted Item: Not Applicable

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: 

Date: 9-10-15

ROUTING SLIP CONTRACTS AND AGREEMENTS

Originating Department: Fire and Rescue

Council Meeting Date: ~~9/24/2015~~ 10/8/15 *DL*

Department Contact: Lesley Easter

Phone # 256-427-5053

Contract or Agreement: Agreement

Document Name: KME Release

City Obligation Amount: NA

Total Project Budget: NA

Uncommitted Account Balance: NA

Account Number: NA

Procurement Agreements

<u>Not Applicable</u>	<u>Not Applicable</u>
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Grant-Funded Agreements

<u>Not Applicable</u>	Grant Name:
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Department	Signature	Date
1) Originating	<i>AW McFarland</i>	<i>9-10-15</i>
2) Legal	<i>Mary C. Cates</i>	<i>9-17-15</i>
3) Finance <i>DL</i>	<i>[Signature]</i>	<i>9/17/15</i>
4) Originating	<i>AW McFarland</i>	<i>9-10-15</i>
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		

RESOLUTION NO. 15- _____

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor is hereby authorized to enter into an Agreement, by and between the City of Huntsville, a municipal corporation in the State of Alabama, and Kovatch Mobile Equipment Corporation, t/a KME, which said Agreement is attached hereto and identified as "Agreement between the City of Huntsville and Kovatch Mobile Equipment Corporation, t/a KME for the waiver and release of a 1989 Grumman Ladder truck" consisting of one(1) page and the date of October 8, 2015, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, and executed copy of said document being permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

ADOPTED this the 8th day of October, 2015.

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the 8th day of October, 2015.

Mayor of the City of Huntsville,
Alabama

"Agreement between the City of Huntsville and Kovatch Mobile Equipment Corporation, t/a KME for the waiver and release of a 1989 Grumman Ladder truck."

WAIVER AND RELEASE

This Waiver and Release is executed by Kovatch Mobile Equipment Corporation, a Pennsylvania corporation (hereinafter referred to as "KME").

In consideration of the City of Huntsville, Alabama (the "City") releasing, transferring and conveying all title and all rights of ownership in the 1989 Grumman Ladder Truck VIN# 1G9ACDDT1KR088021 (the "Truck") to KME, including the execution and delivery of a certificate of title, if such a certificate exists, KME, along with its successors and assigns agree, to the fullest extent permitted by law, shall release, hold harmless, discharge, and agree to indemnify the City, its elected and appointed officials, employees, agents and specified volunteers against all claims, damages, losses and expenses, including, but not limited to, attorney's fees, arising out of or resulting from the use or operation of the Truck by KME or by other parties to whom the truck is transferred.

KME further agrees to release and forever discharge the City, its elected and appointed officials, employees, agents and specified volunteers from any and all manner of claims, demands, damages, causes of action or suits that it might now have or that might subsequently accrue to it by reason of, or in anywise connected with, directly or indirectly, that certain Agreement between the City and KME for the refurbishment of the Truck, which was adopted and approved on the 14th day of March, 2013, by the City Council of the City by Resolution No. 13-211, and modified by Modification No. 1, by the City Counsel of the City by Resolution No. 13-415 on May 23, 2013 (collectively and as modified, the "Agreement") which Agreement was subsequently terminated by the City of Huntsville by Resolution No. 15-438 of the City Council of the City of Huntsville.

In consideration of the foregoing releases and covenants of KME in favor of the City, the City agrees to release and forever discharge the KME, its officers, employees and agents from any and all manner of claims, demands, damages, causes of action or suits that it might now have or that might subsequently accrue to it by reason of, or in anywise connected with, directly or indirectly, the aforesaid Agreement as identified herein.

**KOVATCH MOBILE
EQUIPMENT CORPORATION**
a Pennsylvania corporation

By: 

CITY OF HUNTSVILLE, ALABAMA

ATTEST:

By: _____
Tommy Battle, Mayor
Mayor

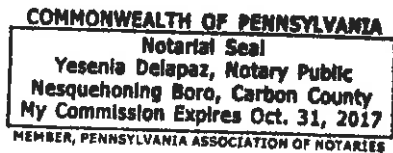
By: _____
Charles E. Hagood
Clerk-Treasurer

President of the City Council
of the City of Huntsville, Alabama
Date: _____

STATE OF PENNSYLVANIA)
)
COUNTY OF CARBON)

I, the undersigned, a notary public in and for said County, in said State, hereby certify that Richard T. Reaman, whose names as Vice President, CFO and Treasurer/Secretary of Kovatch Mobile Equipment Corporation, a Pennsylvania corporation, is signed to the foregoing document, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, in his capacity as Vice President, CFO, Treasurer/Secretary, executed the same with full authority for and as the act of said corporation on the day the same bears day.

GIVEN under my hand and official seal this the 30th day of September, 2015.



Yesenia Delapaz
Notary Public
My Commission Expires: Oct. 31, 2017

STATE OF ALABAMA)
)
COUNTY OF MADISON)

I, the undersigned, a notary public in and for said County, in said State, hereby certify that Tommy Battle and Charles E. Hagood, whose names as Mayor and City Clerk-Treasurer of the City of Huntsville, a municipal corporation, are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, in their capacity as such officers, executed the same with full authority for and as the act of said corporation on the day the same bears day.

GIVEN under my hand and official seal this the ____ day of _____, 2015.

Notary Public
My Commission Expires: _____